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NELSON AVELAR

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

NELSON AVELAR,

Plaintiff,

vs.

BMW OF NORTH AMERICA, LLC, a  
Delaware Limited Liability Company,

Defendant.

Case No.: 2:17-cv-04693-JAK-JPR  
Judge: Hon. John A. Kronstadt

**PLAINTIFF’S NOTICE  
REGARDING JUDICIAL  
CONFLICT**

Trial: VACATED

Plaintiff Nelson Avelar (“Plaintiff”) respectfully submits the following Notice Regarding Judicial Conflict pursuant to 28 U.S.C. § 455(a).

1 On September 17, 2018, the parties, through their counsel, attended the final  
2 pretrial conference. At this hearing, Plaintiff first became aware that the Honorable  
3 Judge John A. Kronstadt had a relationship with the owners of Pacific BMW and  
4 has purchased and serviced vehicles at that dealership. Also, Judge Kronstadt has  
5 had interactions with personnel at Pacific BMW in connection with purchasing and  
6 servicing vehicles at that dealership.

7 Although, Pacific BMW is not a party to this action, Plaintiff's 2011 BMW  
8 328i (the "Subject Vehicle") was leased from Pacific BMW. On several occasions,  
9 Plaintiff presented the Subject Vehicle to Pacific BMW for warranty repairs. Many  
10 of the facts giving rise to Plaintiff's cause of action for breach of warranty under the  
11 Song-Beverly Consumer Warranty Act, California Civil Code § 1790 et seq. (the  
12 "Song-Beverly Act") occurred at Pacific BMW and/or involved personnel from  
13 Pacific BMW. Several personnel from Pacific BMW are expected to testify at trial.

14 Based on the forgoing, Plaintiff respectfully requests that the Honorable Judge  
15 John A. Kronstadt be disqualified from this matter pursuant to 28 U.S.C. § 455(a).  
16 Plaintiff respectfully requests this case be randomly assigned to a different judge.

17  
18 DATED: September 25, 2018

**LAW OFFICES OF MICHAEL H.  
ROSENSTEIN, LC**

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20 By: /s/ Brian T. Shippen-Murray  
21 Michael H. Rosenstein  
22 Brian T. Shippen-Murray  
23 Attorneys for Plaintiff  
24 NELSON AVELAR  
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**CERTIFICATE OF SERVICE**

I hereby certify that on September 25, 2018, I filed the foregoing document entitled **PLAINTIFF'S NOTICE REGARDING JUDICIAL CONFLICT** with the clerk of court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record in this action.

/s/ Brian T. Shippen-Murray  
Brian T. Shippen-Murray